

Atty. Dkt. No. 071949-1307

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kenneth F. Buechler

Title: DIAGNOSTIC DEVICES AND
APPARATUS FOR THE
CONTROLLED MOVEMENT OF
REAGENTS WITHOUT
MEMBRANES

Appl. No.: 09/613,650

Filing Date: 07/11/2000

Examiner: Alexander, Lyle

Art Unit: 1743

CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below. <u>Germaine Sarda</u> (Printed Name) <u>Germaine Sarda</u> (Signature) <u>October 16, 2003</u> (Date of Deposit)
--

TERMINAL DISCLAIMER

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Your Petitioner, Biosite Diagnostics, Inc., having its principal place of business at 11030 Roselle Street, Suite D, San Diego, CA 92121 (hereinafter represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 09/613,650, filed 07/11/2000, by virtue of an Assignment filed on October 14, 2003, in the United States Patent and Trademark Office (copy attached hereto as APPENDIX A). Application Serial No. 09/613,650 is a continuation-in-part of U.S. Patent Application No. 08/447,981, which issued as U.S. Patent No. 5,885,527 on March 23, 1999. Petitioner is the Assignee of U.S. Patent No. 5,885,527, by virtue of an Assignment filed and recorded on July 27, 1995, on Reel/Frame 7671/0380, in the United States Patent and Trademark Office.

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Your Petitioner, Biosite Diagnostics, Inc., hereby disclaims the terminal part of the term of any patent granted on the above identified patent application which would extend beyond the full statutory term, as presently shortened by any terminal disclaimer, of U.S. Patent 5,885,527, and hereby agrees that any patent so granted on the above identified patent application shall be enforceable only for and during such period that the legal title to U.S. Patent 5,885,527 shall be the same as the legal title to any patent granted on the above identified patent application, this agreement to run with any patent granted on the above identified patent application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on the above identified patent application, prior to the full statutory term of U.S. Patent 5,885,527 as defined in 35 U.S.C. §§154-156 and 173, in the event that U.S. Patent 5,885,527 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of U.S. Patent 5,885,527 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on the above identified patent application that would extend beyond the present termination of U.S. Patent 5,885,527, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on the above identified patent application to the extent provided by law.

The undersigned, being the Attorney of Record for the above identified patent application, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignment attached as APPENDIX A, and to the best of his knowledge and belief, legal title to

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the above identified patent application and U.S. Patent 5,885,527 rests with Petitioner, Biosite Diagnostics, Inc.

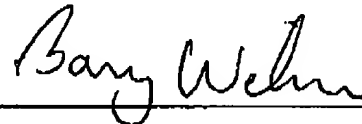
The undersigned declares that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

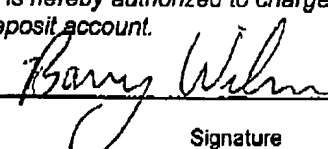
Date October 16, 2003

FOLEY & LARDNER
Customer Number: 30542
Telephone: (858) 847-6722
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By



Barry S. Wilson
Attorney for Applicant
Registration No. 39,431

FORM PTO-1595 (modified) (Rev 6-93)		U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office	
RECORDATION FORM COVER SHEET PATENTS ONLY			
To the Director of the United States Patent and Trademark Office: Please record the attached original documents or copies thereof.			
1. Name of conveying party(ies): Kenneth F. Buechler, Ph.D.		2. Name and address of receiving party(ies): Biosite Diagnostics, Inc. 11030 Roselle Street Suite D San Diego, CA 92121	
Additional conveying party(ies) NO			
3. Nature of conveyance: ASSIGNMENT Execution Date: October 10, 2003		Additional name(s) & address(es) attached? NO	
4. Application number(s) or patent number(s): If this is being filed together with a new application, the execution date of the application is: A. Patent Application Number(s): 09/613,650 B. Patent Number(s): Additional numbers attached? NO			
5. Name and address of party to whom correspondence concerning document should be mailed: Barry S. Wilson FOLEY & LARDNER P.O. Box 80278 San Diego, California 92138-0278		6. Total number of applications/patents involved: 1 7. Total fee (37 C.F.R. § 3.41): \$40.00 Check Enclosed <input checked="" type="checkbox"/> Charge to deposit account 8. Deposit account number: 50-0872	
DO NOT USE THIS SPACE			
9. Statement and signature: <i>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. The Commissioner is hereby authorized to charge any additional recordation fees which may be required in this matter to the above-identified deposit account.</i> Barry S. Wilson		 October 14, 2003	
Name of person signing		Signature Date	
Total number of pages including cover sheet, attachments, and document: 3			

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ASSIGNMENT AND AGREEMENT

WHEREAS, Kenneth F. Buechler, Ph.D. of PO Box 77, Rancho Santa Fe, CA 92067; (hereinafter referred to singly and collectively as "ASSIGNOR") have invented a certain invention entitled **DIAGNOSTIC DEVICES AND APPARATUS FOR THE CONTROLLED MOVEMENT OF REAGENTS WITHOUT MEMBRANES** (Atty. Dkt. No. 071949-1307) for which an application for United States Letters Patent was filed on July 11, 2000 as Application No. 09/613,650; and

WHEREAS, Biosite Diagnostics, Inc., a corporation duly organized and existing under the laws of the State of Delaware, and having its principal place of business at 11030 Roselle Street, Suite D, San Diego, CA 92121 (hereinafter referred to as "ASSIGNEE") is desirous of acquiring the entire interest therein;

NOW THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ASSIGNOR has sold, assigned, and transferred, and by these presents hereby sells, assigns, and transfers, unto ASSIGNEE, its successors and assigns, the full and exclusive right, title, and interest in and to (a) the above-identified invention or inventions and all improvements and modifications thereof, (b) the above-identified application and all other applications for Letters Patent of the United States and countries foreign thereto for the above-identified invention or inventions and all improvements and modifications thereof, (c) all Letters Patent which may issue from said applications in the United States and countries foreign thereto, (d) all divisions, continuations, reissues, and extensions of said applications and Letters Patent, and (e) the right to claim for any of said applications the full benefits and priority rights under the International Convention and any other international agreement to which the United States adheres; such right, title, and interest to be held and enjoyed by ASSIGNEE, its successors and assigns, to the full end of the term or terms for which any and all such Letters Patent may be granted as fully and entirely as would have been held and enjoyed by ASSIGNOR had this Assignment not been made.

ASSIGNOR HEREBY AUTHORIZES AND REQUESTS the Commissioner of Patents and Trademarks to issue said Letters Patent to ASSIGNEE as assignee of the entire interest, for the sole use and benefit of ASSIGNEE, its successors and assigns.

ASSIGNOR HEREBY AGREES (a) to communicate to ASSIGNEE, its successors and assigns, or their representatives or agents, all facts and information known or available to ASSIGNOR respecting said invention or inventions, improvements, and modifications including evidence for interference, reexamination, reissue, opposition, revocation, extension, or infringement purposes or other legal, judicial, or administrative proceedings, whenever requested by ASSIGNEE; (b) to testify in person or by affidavit as required by ASSIGNEE, its successors and assigns, in any such proceeding in the United States or a country foreign thereto; (c) to execute and deliver, upon request by ASSIGNEE, all lawful papers including, but not limited to, original, divisional, continuation, and reissue

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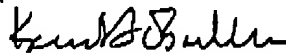
applications, renewals, assignments, powers of attorney, oaths, affidavits, declarations, depositions; and (d) to provide all reasonable assistance to ASSIGNEE, its successors and assigns, in obtaining and enforcing proper title in and protection for said invention or inventions, improvements, and modifications under the intellectual property laws of the United States and countries foreign thereto.

ASSIGNOR HEREBY REPRESENTS AND WARRANTS that ASSIGNOR has the full and unencumbered right to sell, assign, and transfer the interests sold, assigned, and transferred herein, and that ASSIGNOR has not executed and will not execute any document or instrument in conflict herewith.

ASSIGNOR HEREBY GRANTS to the law firm of Foley & Lardner the power and authority to insert in this Assignment any further identification which may be necessary or desirable to comply with the rules of the U.S. Patent and Trademark Office for recordation of this Assignment.

ASSIGNOR UNDERSTANDS AND AGREES that the attorneys and agents of the law firm of Foley & Lardner do not personally represent ASSIGNOR or ASSIGNOR's legal interests, but instead represent the interests of ASSIGNEE; since said attorneys and agents cannot provide legal advice to ASSIGNOR with respect to this Assignment, ASSIGNOR acknowledges its right to seek its own independent legal counsel.

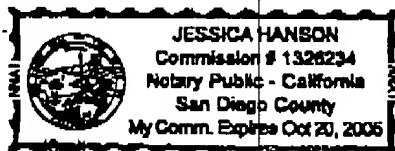
Executed this 10 day of Oct, 2003

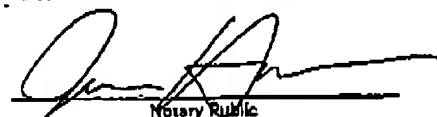


KENNETH F. BUECHLER, PH.D.

State of California
County of San Diego

On this 10 day of October, 2003, before me, a notary public in and for said county, appeared KENNETH F. BUECHLER, PH.D., who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.




Notary Public
My Commission Expires: 10/20/05

OCT. 16. 2003 2:13PM

858 792-6773 FOLEY AND LARDNER

NO. 4890 P. 18 P. 1

* * * COMMUNICATION RESULT REPORT (OCT. 14. 2003 3:06PM) * * *

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E-1) HANGUP
E-2) NO ANSWERE-2) BUSY
E-3) NO FACSIMILE CONNECTION**FOLEY & LARDNER**

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Total # of Pages 4 (including this page)

TO:	PHONE #:	FAX #:
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From : Barry S. Wilson

Date : October 14, 2003

Client/Matter No : 071949-1307

User ID No : 3067

MESSAGE:Re: US Patent Application No. 09/613,650
Our Ref.: 071949-1307

Attached please find:

- Assignment Recordation Cover Sheet (1 pg.);
- Assignment (2 pgs.);
- Authorization to charge Deposit Acct. No. \$40.00 for fees due.

If there are any problems with this transmission or if you have not
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